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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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OFFICE OF PETITIONS

In re Application of	:	
Terrell B. Jones et al.	:	
Application No. 09/141,264	:	DECISION ON PETITIONS
Filed: August 27, 1998	:	UNDER 37 C.F.R. §§ 1.181 and
Attorney Docket Number:	:	1.137(b)
7099.0003	:	
Title: GOAL ORIENTED TRAVEL	:	
PLANNING SYSTEM	:	

This is a decision on the petitions under 37 C.F.R. §§1.181 to withdraw the holding of abandonment and 1.137(b)¹, to revive the above-identified application, concurrently filed on March 16, 2006.

The above-identified application became abandoned due to the November 18, 2005 decision of the Board for Patent Appeals and Interferences which upheld the majority of the Examiner's rejections. Specifically, the decision affirmed the Examiner's rejection of claims 1-58 under the provisional obvious double

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

1. The reply required to the outstanding Office action or notice, unless previously filed;
2. The petition fee as set forth in § 1.17(m);
3. A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
4. Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

patenting rejection as well as the Examiner's rejection of claims 1-57 under 35 U.S.C. §103, while reversing the Examiner's rejection of claim 58 under 35 U.S.C. §103. As such, all claims stood rejected. Accordingly, the above-identified application became abandoned on January 19, 2006, the expiration of the period for seeking judicial review of this decision². A Notice of Abandonment was mailed on February 14, 2006.

The petition under 37 C.F.R. §1.181:

Petitioner has asserted that the holding of abandonment should be withdrawn, as the Examiner should have "issued the application with claim 58³." The Examiner could not have issued the application, as no claims stood allowed. The issuance of claim 58 would have been improper, since the Board's decision affirmed the Examiner's rejection of claims 1-58 under the provisional obvious double patenting rejection. Pursuant to MPEP §1214.06(I), when no claims stand allowed:

The proceedings in an application or ex parte reexamination proceeding are terminated as of the date of the expiration of the time for filing court action. The application is no longer considered as pending. It is to be stamped abandoned and sent to abandoned files.

Petitioner has asserted that claim 58 should have been permitted to issue without the need for a terminal disclaimer because the present application "should have issued before the issuance of the later filed application⁴," 10/141,935, the application on which the provisional obvious double patenting rejection is based. This argument is not well taken, as it is not clear why Petitioner believes that the present application necessarily should have issued prior to 10/141,935, and it is not clear why this belief should obviate the double patenting rejection.

The Board Decision clearly indicates that no claims stood allowed. Pursuant to MPEP §1214.06(I), the application became abandoned as of the date of the expiration of the time for filing court action. As such, the holding of abandonment was proper, and the present petition under 37 C.F.R. §1.181 must be **DISMISSED**.

² See MPEP § 1216.

³ Petition, page 1.

⁴ Petition, page 2.

The petition under 37 C.F.R. §1.137(b):

With the present petition, Petitioner has made the proper statement of unintentional delay. The petition fee has been charged to his Deposit Account, as authorized in the petition, and it is noted that a statutory disclaimer was submitted on February 10, 2006.

The petition under 37 C.F.R. §1.137(b) is hereby **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, and the Examiner will review the statutory disclaimer of February 10, 2006 for determination of whether the application should be issued with claim 58.



Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office